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PORTSTEWART FISHERMEN.

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RETURN to an Order of the Honourable The House of Commons,  
dated 12 March 1887;—for,

COPIES "of any REPORT made by the INSPECTOR of FISHERIES on the Complaints of the PORTSTEWART FISHERMEN of DAMAGE done to their NETS by a Steamer, Chartered by the Conservators of Fisheries and the Lessees of the Foyle and Bann Salmon Fisheries, going amongst them at Night without Lights, and also of their being prevented Fishing on the High Seas by Persons claiming a Several Fishery :"

"And, of any ORDER of the COURT of CHANCERY, in the case of O'NEILL v. BACON and OTHERS (in 1876), showing the Boundary of such FISHERY."

Dublin Castle,  
31 March 1887. }

REDVERS BULLER.

(Mr. Bigger.)

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*Ordered, by The House of Commons, to be Printed,  
7 April 1887.*

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COPIES of any REPORT made by the INSPECTOR of FISHERIES on the Complaints of the PORTSTEWART FISHERMEN of DAMAGE done to their NETS by a Steamer, Chartered by the Conservators of Fisheries and the Lessees of the Foyle and Bann Salmon Fisheries, going amongst them at Night without Lights, and also of their being prevented Fishing on the High Seas by Persons claiming a Several Fishery: And of any ORDER of the COURT of CHANCERY, in the case of O'NEILL v. BACON and OTHERS (in 1876), showing the Boundary of such FISHERY.

Office of Irish Fisheries, Dublin Castle,

30 July 1885.

Sir,

I HAVE the honour to return herewith the file (No. 20,074) relative to the complaints of the fishermen of the County Londonderry, as to damage caused to their nets, &c., by a steamer chartered by the Conservators of Fisheries of the Londonderry district, and the lessees of the Foyle and Bann salmon fisheries cruising amongst them, and to enclose, for the information of his Excellency the Lord Lieutenant, the Report of the Inspectors of Irish Fisheries on inquiries into the matter held at Portrush and Moville in November 1884, and March 1885.

I have, &c.

(signed) *George Coffey*,  
Secretary.

The Chief or Under Secretary,  
Dublin Castle.

REPORT on Inquiry relative to Complaint of Fishermen, County Londonderry, against Steamer injuring their Nets, and certain other Matters.

To the Chief Secretary for Ireland.

Sir,

In compliance with your instructions we held public meetings at Portrush and Moville on the 4th, 5th, and 7th November 1884, and 12th and 13th March 1885, to inquire into the complaints made by certain fishermen of the Londonderry coast, of injury done to their fishing gear by a steamer employed by the Conservators of the Londonderry district, and the lessees of the Foyle and Bann fisheries, and we have now the honour to report, for the information of his Excellency the Lord Lieutenant, that the substance of the principal complaints made, and our observations thereon, are as follow:—

1. They complain that the Conservators of Fisheries of the Londonderry district, and the lessees of the salmon fisheries of the Foyle and Bann rivers under the Irish Society have for some years past chartered a steamer, which on many occasions carries no lights, while sailing in the open sea along a certain portion of the coast of the counties of Antrim and Londonderry, when the fishermen are fishing at night.

This statement was proved and is correct.

2. That this steamer carries no writ or letter of marque from the Admiralty.

No evidence was produced to show what was meant by this statement.

3. That the steamer makes seizures on supposed boundary lines which never existed.

The evidence proved that many seizures were made by the officers on board the steamer, on the grounds that the fishermen had trespassed with their nets across

across an imaginary line, on the open sea which formed the boundary between the districts of Coleraine and Londonderry, and fished in either of those districts, in which they had not taken out a license to fish, having been only licensed in one district. The charges were principally made against the fishermen living in the Londonderry district, at Moville, and Greenacastle, crossing this line and fishing in the Coleraine district, they having only taken out license in the Londonderry district, and on one occasion only, a net was seized in consequence of the fishermen not having their license with them to produce when demanded.

These seizures became subsequently either the subject of investigation before the magistrates, and decided on by them, and consequently it was not competent for us to inquire into such cases, as we would thereby be constituting ourselves a quasi court of appeal on the decisions of magistrates; or the nets seized, so far as we could gather from the evidence were brought before the magistrates for an order of forfeiture.

The expression in this complaint, "supposed boundary lines," has reference to the boundaries fixed by the Commissioners in 1855 dividing the two districts.

They defined the tidal division of the Londonderry District to be as follows:—

"The whole of the sea along the coast between Malin Head, in the county of Donegal, and the townland boundary, between the townlands of Drumagully and Downhill, in the county of Londonderry, and around any islands or rocks situate off the same, with the whole of the tideway along said coast and rivers, and the whole of the tidal portions of the several rivers and their tributaries, flowing into the said coast between said points."

And the tidal division of the Coleraine District to be as follows:—

"The whole of the sea along the coast between the sea point of the townland boundary, between the townlands Downhill and Drumagully, in the county of Londonderry, and the point of Portrush, in the county of Antrim, and around any islands or rocks situate off the same, with the whole of the tideway along said coast and rivers, and the whole of the tidal portions of the several rivers and their tributaries flowing into the said coast, between the said points."

A map showing the points referred to in their order is annexed, but how the lines fixing the boundaries between the two districts out at sea were to be drawn from the points mentioned, i.e., in what directions they were to be drawn the Commissioners did not define, and hence the expression "supposed boundary lines."

4. That the people on board this steamer destroy the nets previous to trial to hide fishermen's proof.

This statement was not proved. It was only proved that on one occasion a valuable net was seized, and before being brought before the magistrates it was cut into seven pieces, the persons who did this alleged that it was too troublesome, being gathered up, to open, and being such a length, they were anxious to have it dried, having only one day to have it opened.

5. That this steamer maliciously runs through fishermen's nets.

This statement was not proved. The persons on board the steamer, and one of the lessees of the Foyle and Bann Fishery, distinctly swore that instructions were given, and every exertion made not to injure nets; though it was admitted they might unintentionally have done so.

6. That the people on board the steamer used threatening language. This statement was not proved.

7. That this steamer damages their boats, under pretence of seeing their licenses, and in other ways destroys their fishing.

Evidence was given as to some injury having been done to a boat, but except on two occasions licenses were not demanded by those on board the steamer, who, as officers under the Board of Conservators, had the power to demand the production of them from any one fishing for salmon.

## GENERAL REMARKS AND CONCLUSIONS.

With regard to the complaint that the steamer chartered by the Conservators and the lessees of the Foyle and Bann salmon fishery sails out and in the open sea without lights, the Conservators are authorised to employ means for the protection of the fisheries and the enforcement of the laws, and their officers allege that there would be great difficulty in doing this if the steamer carried lights.

The laws to be enforced on this coast would practically be only—

Firstly.—Prohibiting fishing in a district in which the persons fishing for salmon had not taken out a licence.

Secondly.—Preventing fishing for salmon during the weekly close season, viz., from Saturday morning to Monday morning; and,

Thirdly.—Preventing fishing within half a mile of the mouth of the River Bann.

These are practically the only offences on this coast likely to occur, and the two former, usually only those complained of.

When nets have been seized during the legal open season the officers on board the steamer allege that the fishermen, principally belonging to the Londonderry district, and who had paid licence duty only in that district, crossed the imaginary boundary line referred to in Number 3 paragraph, and fished in the Coleraine district, in which they had not paid licence duty, and that in consequence they seized the nets. They stated that they could distinguish at night the boundary line between the two districts when half a mile or more out at sea, and that when they see the fishermen boarding up their nets on the approach of the steamer it is strong evidence that they are breaking the law by being outside the district in which they had paid licence, and further that they (the officers) always make allowance of half a mile over the boundary before acting.

The fishermen, on the other hand, stated that when they see the steamer approach, they commence to board up their nets through fear of being run through, and their whole train destroyed, and on many occasions that they cut away a portion of their nets to prevent the whole being taken away. They further swore positively that they are in danger of their lives from the steamer cruising about at night amongst them without lights, and are seriously obstructed in their fishing operations.

On two occasions only have the officers on board the steamer demanded the licences of the fishermen before making seizures, as they alleged they knew all the boats that were licensed.

Notwithstanding the evidence of the officers on board the steamer, that they are able at night to tell the boundaries between the two districts when out at sea for half a mile or more, Mr. Brady cannot think that this can be done in such a positive manner as to justify a seizure of a net at that distance from the shore in the open sea at night, particularly as the fishermen have given such strong evidence to the contrary, and also that even in daylight it would be a matter of difficulty, and involving doubt, to find without taking bearings by the compass on which side of an imaginary line in the open sea a net and boat were. It was admitted that hearings were never taken.

Major Hayes, on this point, differs from Mr. Brady; the evidence given by the officers of the Conservators was so distinct and positive that they could discern the boundaries of the two districts at a distance of half a mile from the shore on all occasions when they had been out at night, within which distance most of the seizures were made, that he (Major Hayes) has no doubt of the correctness of their evidence.

To remove all doubt, and prevent complaints or any injustice being done on this head, it would be necessary to have the lines of demarcation between the two districts buoyed out to sea for about three miles, as the fishermen stated they fished out to that distance or more.

Even if power were given to do this, it would be attended with so much difficulty that some other plan should be devised.

The only one Mr. Brady can suggest is that fishermen who have paid licence duty in one district, and who fish in the open sea, as in this case, should not be

compelled to pay a second license, by reason of having crossed an imaginary line such as here, and fishing in the open sea opposite to a neighbouring district, provided they do not approach nearer to the shore than, say, 400 yards; or that power should be given to consolidate the two districts.

Major Hayes does not see the necessity of this, as he believes that the fishermen, as a rule, know very well when they are fishing outside the district for which they have paid license duty; at the same time there may be something to be said in favour of power being given to consolidate the two districts.

The officers of the Board of Conservators, and the lessors of the Foyle and Bern Fisheries, allege also that the fishermen of the Londonderry district often break the law relating to the weekly close season, but they did not know of the fishermen of the Coleraine district doing so. If the fishermen of either district break the law in this respect, they would have no just cause of complaint if they lose their nets by the action of the steamer.

As it happens, however, that on many occasions boats are *bona fide* lawfully engaged on the same coast fishing for sea fish, during the time it is prohibited by law to fish for salmon, and that the fishermen complain of the danger and risk to their nets and boats, and even lives, by a steamer going amongst them without lights at night, Mr. Brady thinks the steamer should not be allowed to do so during the weekly close season, even though, as alleged by the Conservators' officers, there would be a difficulty in enforcing the observance of the weekly close season for salmon if the carried lights.

The evidence is sufficient to prove that nets have been injured by the steamer on several occasions, and that while she is going about amongst boats and nets fishing at night, this being the only time the salmon fishing is pursued on this coast by these fishermen, the fear of being run down causes serious injury to the general interests of the fishermen in following their lawful avocations, and he thinks, therefore, the steamer should be compelled to carry lights at all times on the coast.

Major Hayes is of opinion that great exaggeration has been exhibited by the fishermen in their statements in regard to damage done to their nets, and as to the danger to which they allege they have been exposed by the action of the steamer, for, with the exception of the one solitary instance of damage to one boat before alluded to, no cases have occurred of injury to boats during the seven seasons the steamer has been employed by the Board of Conservators and lessors. He (Major Hayes) cannot recommend serious interference with them in their endeavours to perform their duties in protecting the district from illegal fishing.

During the inquiry the fishermen of the Coleraine district who received from the officers of the Conservators a high character of a law-abiding people, complained bitterly, and we think with very good reason, that when they had paid for licenses to fish in that district they do not know where they can legally fish in the open sea within the bounds of that district, as claims to private or several fisheries are made, but to what extent these private fisheries exist, or what are their metes and bounds they cannot tell. They do not now dispute them, and simply wish to avoid trespassing, but no one will afford them the information they seek. This is a most unsatisfactory state of things. Nothing can be fairer or more legitimate than that they should get the information sought for. We think that any persons who have established private rights to fisheries in the open sea should be required to register a record of the metes and bounds of such fisheries, so that there may be no excuse for the public trespassing on such private property, or of injury being done to the public fishermen by exclusion from parts of the open sea where *bona fide* no private rights exist, and that before such a record be made final and binding on the public, they should have a right of appeal to the High Court of Justice in Ireland.

The shorthand writer's notes of the evidence taken at these inquiries are appended hereto.

28 July 1885.

(signed) Thomas F. Brady, } Inspectors of  
Joseph Hayes, } Irish Fisheries.

We think it right to add that our late colleague, Mr. Johnston, took part in these inquiries, but previous to leaving the service did not make any report thereon.

J. F. B.  
J. H.

## HIGH COURT OF JUSTICE (IRELAND)—CHANCERY DIVISION.

Vice-Chancellor of Ireland.—In Chancery, the 30th day of May 1876.

HENRY O'NEILL - - - - - Plaintiff.

ALEXANDER BACON, DAVID BACON; ROBERT  
BACON, JAMES BACON, JOHN BOYD, ALEXAN-  
DER FRIZZLE, ROBERT FRIZZLE, WM. FRIZZLE,  
THOMAS MARTIN - - - - - Defendants.

UPON motion for a decree on this day made unto the Right Honourable the Vice-Chancellor of Ireland by counsel for the Plaintiffs no person appearing for the Defendants although they were duly served with notice of this motion as appears by a copy of said notice stamped by the proper officer of this Court and on reading the said notice dated the Twenty-sixth day of April One thousand Eight hundred and Seventy-six, the affidavits of Henry O'Neill, John O'Neill, Robert John Gregg, John Brown, Felix Martin, Richard Magenis, Douglas John Harrey, Robert John McCandless, and Edward Hay filed respectively the Twenty-sixth day of April One thousand Eight hundred and Seventy-six, the deed of conveyance from Landed Estates Court Ireland to the Plaintiff dated the Twenty-eighth day of July One thousand Eight hundred and Seventy-one, the attested copy summons and plaint in the action of O'Neill v. Allen filed in the Court of Exchequer in Ireland on the Fourth day of June One thousand Eight hundred and Fifty-eight the attested copy defence to said action filed on the Ninth day of June One thousand Eight hundred and Fifty-eight the attested copy of the Record in said action filed on the Twenty-first day of April One thousand Eight hundred and Fifty-eight the attested copy of the conditional order in said action dated the fifth day of November One thousand Eight hundred and Fifty-eight, the attested copy absolute order in said action dated the Fifth day of February One thousand Eight hundred and Fifty-nine the attested copy judgment in said action dated the Twenty-first day of April One thousand Eight hundred and Fifty-nine the lease dated the Twenty-ninth day of December One thousand Six hundred and Sixty-eight the attested copy of the four convictions obtained by the Plaintiff against Thomas Martin, junior, Robert Frizzle, William Frizzle, and Alexander Frizzle respectively bearing date the Third day of September One thousand Eight hundred and Seventy-five and the notice served on the Defendants respectively dated the Nineteenth day of July One thousand Eight hundred and Seventy-five, this Court doth decree that the Plaintiff be quieted in the possession and enjoyment of the several salmon fisheries as conveyed to him by the said deed of conveyance dated the Twenty-eighth day of July One thousand Eight hundred and Seventy-one from the Judge of the Landed Estates Court Ireland and described on the map annexed thereto and it is ordered that a perpetual injunction do issue in this cause to restrain the said Defendants, Alexander Bacon, David Bacon, Robert Bacon, James Bacon, John Boyd, Alexander Frizzle, Robert Frizzle, Wm. Frizzle, and Thomas Martin and each and every of them their and each and every of their agents servants and workmen from fishing for salmon within the limits of Plaintiff's said fishery as set out in the said conveyance from the Judge of the Landed Estates Court Ireland and described on the map annexed thereto and from interfering with or in any way hindering the enjoyment use or occupation by the Plaintiff of the said fishery. And it is further ordered that the Plaintiff do abide his own costs of this suit.

William Geale, A.B.

William Sullivan, C.R.N.

IN THE HIGH COURT OF JUSTICE IN IRELAND, CHANCERY DIVISION.—  
LAND JUDGES.

I STEPHEN WOULFE FLANAGAN one of the Judges of the Landed Estates Court Ireland under the authority of an Act passed in the twenty-second year of the reign of Queen Victoria intitled "An Act to Facilitate the Sale and Transfer of Land in Ireland" in consideration of the sum of Two thousand five hundred and twenty pounds by Henry O'Neill of Portstewart in the county

of Londonderry farmer paid into the Bank of Ireland to the account of the said Court and to the credit of the estate of Arnold William White and Robert John Purcher Broughton Esquires trustees for sale of the estate of William Wilson Campbell Esquire deceased owners and petitioners do grant unto Henry O'Neill. Firstly that part of the town and lands of West Tullaghmurphy containing five acres three roods and fifteen and a-half perches statute measure or thereabouts situate in the barony of North-east Liberties of Coleraine and county of Londonderry and described in the map\* annexed hereto. Secondly the salmon fishery extending from point marked A. near the town of Portlewart to the point marked B. near mouth of the River Bann with all necessary privileges for the enjoyment of the same along the shore between the said two points. To hold the said firstly and secondly hereby granted premises unto said Henry O'Neill his heirs and assigns for ever subject as to the premises firstly hereby granted (in conjunction with the lands of Garbogle Carnanoe Carnalbanagh Drumsdale part of Island Tassety otherwise Island Tasserty East Ballygelogh Little Craigtown otherwise Craigtownbeg with the salmon fishery which adjoins the lands of East Ballygelogh the lands of Cappaghbeg Cappaghmore East and West Tullaghmurphy and East Crossreagh) to the perpetual yearly rent-charge or sum of thirty-seven pounds seventeen shillings late currency together with sixpence for every pound of the said rent yearly for Receiver's fees equivalent to thirty-five pounds sixteen shillings and twopence present currency to be paid by half-yearly payments on every First day of November and First day of May created by a former conveyance of the said lands made by an indenture dated the Eighteenth day of June one thousand seven hundred and forty and made between the Right Honourable Alexander Earl of Anson of the one part and Felix O'Neill of the other part and to all powers and remedies for enforcing payment thereof or existing in re-port thereof and as to the premises firstly and secondly granted Subject in conjunction with said lands of Cappaghbeg Cappaghmore East Tullaghmurphy the remaining parts of West Tullaghmurphy and East Crossreagh to the payment of a perpetual annuity or yearly rent-charge of fifty pounds payable to the representatives of Samuel Wright Knox deceased and to two several annuities of fifteen pounds each for the life of Henry O'Neill Subject also to the annuity of forty pounds for the life of Mary Annie Canning and subject also to the annuity of sixty pounds for the life of Henry O'Hara and to an annuity of forty pounds for the life of Mary Robinson otherwise O'Hara and to an annuity of five pounds for the life of Charles Martin created under and by virtue of the will of the late Henry O'Hara Esquire deceased and a condil thereto dated respectively the Twenty-seventh day of February one thousand eight hundred and forty-two and to all powers and remedies and terms of years if any for securing payment of said respective annuities or yearly rent-charges but with the benefit of and liable to the provisions contained in a certain Partition Order of this Court dated the Twenty-fifth day of November one thousand eight hundred and seventy and made in the matter of said estate and whereby the lands of Garbogle Carnanoe Carnalbanagh Drumsdale part of Island Tassety otherwise Island Tasserty East Ballygelogh Little Craigtown otherwise Craigtownbeg with the salmon fishery which adjoins the said lands of East Ballygelogh all situate in the said county of Londonderry were allotted in severalty as therein primarily liable to the payment of one moiety of the said yearly rent of thirty five pounds sixteen shillings and twopence in indemnification of the lands of Cappaghbeg Cappaghmore East and West Tullaghmurphy and East Crossreagh and whereby the said lands of Cappaghbeg Cappaghmore East and West Tullaghmurphy and East Crossreagh were allotted in severalty as therein primarily liable to the other moiety of the said rent in indemnification of said other lands and as to the lands hereby conveyed further indemnified against the said last-mentioned moiety of said perpetual yearly rent-charge and the said perpetual yearly rent-charge of fifty pounds and the costs and expenses occasioned by the non-payment thereof by that part of the lands of East Tullaghmurphy containing seventy-eight acres three roods and twenty-three and a-half perches situate in the barony and county aforesaid which has been sold by the said court subject thereto and further indemnified against the said two several annuities of fifteen pounds for the life of Henry O'Neill and the said annuity of forty pounds for the life of Mary Ann Canning by that part of the lands of West Tullagh-

murphy

\* The Register of the Court states that he has no means of supplying a copy of this map, as copies of conveyances retained in Court have not maps attached to them.



merry containing seventy-seven acres three roods and six and a-half perches situate in the barony and county aforesaid which have been sold by the said Court Subject thereto and further indemnified against the said annuities of sixty pounds for the life of Henry O'Hara and the said annuity of forty pounds for the life of Mary Robinson and all costs and expenses occasioned by the non-payment thereof by the lands of East Crossreagh containing four hundred and twenty acres three roods and twenty-three perches in the barony and county aforesaid which have been sold by the said Court Subject thereto and liable to bear the said annuity of five pounds payable for the life of Charles Martin in full exoneration of all other lands charged therewith and subject to the lease and tenancies mentioned in the schedule hereto and subject also to the right of the public to use the county road which passes along the boundary of the said lands and subject also to the right of way for the occupiers of the Low Rock Castle and Low Rock House and their tenants for the time being for horses cars &c. along the road lettered C. D. to and from the county road at D. and also to the right of the public to use the footway along the shore.

In Witness whereof I the said Stephen Woulfe Flanagan have herunto set my hand and the Seal of the said Court this Twenty-eighth day of July in the Year of Our Lord One Thousand Eight Hundred and Seventy-one.

Signed and Sealed in the } *S. Woulfe Flanagan,*  
presence of } *S. J. Lynch, Registrar.*

Joseph M. Kennedy.  
Daniel Linton, Clerks.

Clerk to Messrs. R. & A. C. Crookshank,  
4, Blessington-street, Dublin and Coleraine.

#### SCHEDULE.

Description.	Tenant's Name.	Quantity of Land, British Measure.	Yearly Rent.	Gale Days.	Term of Tenancy.
West Telegraphy (part of) and Fishery.	Henry O'Hall -	a. r. p. 4 1 24	£. s. d. 75 - -	1st May and 1st November.	Tenant from year to year; tenancy determinable 1st November in each year.
	John Boyd -	0 1 14½	- 5 -	1st May and 1st November.	Tenant from year to year; tenancy determinable 1st November in each year.
	Representatives of Miss Helen Stephens.	0 3 9	- 5 -	1st May and 1st November.	Lease dated 1st October 1837, from Helen M'Manus and Henry O'Hara to Miss Helen M'Manus, for the term of 41 years, from 1st November 1838, and the lives of John Stephenson, Alexander Stephenson, and Margaret Stephenson.

*S. Woulfe Flanagan,*  
*S. J. Lynch, Registrar.*

I certify that the above mentioned sum of Two Thousand Five Hundred and Twenty Pounds was paid into the Bank of Ireland to the account and credit above-mentioned on the Fourteenth Day of July One Thousand Eight Hundred and Seventy-one.

*S. Woulfe Flanagan,*  
*S. J. Lynch, Registrar.*

*S. J. Lynch, Registrar.*

